

AMENDED IN ASSEMBLY MAY 11, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1775

Introduced by Assembly Member Furutani
(Coauthors: Assembly Members ~~Block~~ and ~~Hayashi~~ Ammiano,
***Arambula, Block, Brownley, Carter, Eng, Hayashi, and Torlakson*)**

February 9, 2010

An act to amend Section 37222 of, *to add Sections 37222.10, 37222.11, 37222.12, 37222.13, 37222.14, and 37222.15 to, and to repeal Section 37222.5 of*, the Education Code, and to add Section 6722 to the Government Code, relating to public schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1775, as amended, Furutani. Public schools: Fred Korematsu Day of Civil Liberties and the Constitution.

Existing law requires the Governor to proclaim certain days each year for specified reasons. Existing law also designates particular days each year as having special significance in public schools and educational institutions and encourages those entities to conduct suitable commemorative exercises on those dates.

This bill would require the Governor annually to proclaim January 30 as Fred Korematsu Day of Civil Liberties and the Constitution, would designate that date of each year as having special significance in public schools and educational institutions, and would encourage those entities to observe that date by conducting exercises remembering the life of

Fred Korematsu and recognizing the importance of preserving civil liberties.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) It is the intent of the Legislature in enacting
- 2 this act to do all of the following:
- 3 (1) Declare January 30 the Fred Korematsu Day of Civil
- 4 Liberties and the Constitution.
- 5 (2) Emphasize the constitutional rights afforded to all Americans
- 6 regardless of race or ancestry, particularly the rights to due process
- 7 and life, liberty, and property that are guaranteed by the Fifth and
- 8 Fourteenth Amendments *of the United States Constitution*.
- 9 (3) Uphold the civil liberties of all citizens that are granted by
- 10 the United States and California Constitutions, especially in times
- 11 of real or perceived crisis.
- 12 (b) The Legislature finds and declares all of the following:
- 13 (1) During World War II, Fred Korematsu was arrested and
- 14 convicted for defying the exclusion order at a time when persons
- 15 of Japanese ancestry, including United States citizens, were ordered
- 16 to live in concentration camps. Four decades later, Korematsu's
- 17 wrongful conviction was overturned by Judge Marilyn Hall Patel
- 18 of the United States District Court. In granting Mr. Korematsu's
- 19 petition for writ of error coram nobis, Judge Patel acknowledged
- 20 in her decision that "a grave injustice was done to American
- 21 citizens and resident aliens of Japanese ancestry who, without
- 22 individual review or any probative evidence against them, were
- 23 excluded, removed and detained by the United States during World
- 24 War II." Judge Patel further stated, "[Korematsu] stands as a
- 25 caution that in times of distress the shield of military necessity and
- 26 national security must not be used to protect governmental actions
- 27 from close scrutiny and accountability. It stands as a caution that
- 28 in times of international hostility and antagonisms our institutions,
- 29 legislative, executive, and judicial, must be prepared to exercise
- 30 their authority to protect all citizens from the petty fears and
- 31 prejudices that are so easily aroused."
- 32 (2) Fred Korematsu's lifelong pursuit of justice on his own
- 33 behalf and for countless others is uniquely symbolic of the founding

1 ideals and traditions of our State and Nation. He remained a tireless
2 advocate for, and is an enduring symbol of, every American's right
3 to liberty, due process, and equality without regard to race,
4 ethnicity, or national origin.

5 (3) In 1942, Gordon K. Hirabayashi and Minoru Yasui also
6 defied the curfew imposed on United States citizens and permanent
7 residents of Japanese ancestry. In 1943, Hirabayashi and Yasui
8 were also wrongfully convicted and denied justice by the United
9 States Supreme Court.

10 (4) The Fifth Amendment and the Fourteenth Amendment of
11 our United States Constitution both guarantee a right to due
12 process. These rights were violated when ~~Americans~~ *United States*
13 *citizens and permanent residents* of Japanese ancestry were denied
14 the fundamental rights to notice of any criminal charges, the right
15 to attorneys, and the right to a trial. Korematsu, Hirabayashi, and
16 Yasui each took a principled stand at great personal sacrifice in
17 protesting government sanctioned discrimination based on racial
18 heritage and ancestry.

19 (5) Fred Korematsu was born in Oakland, California, on January
20 30, 1919, to Japanese immigrant parents. Upon graduation from
21 Castlemont High School in 1937, Fred Korematsu wanted to serve
22 his country in the military and attempted to enlist in the United
23 States National Guard and the United States Coast Guard, but was
24 rejected because his Selective Service classification had been
25 changed to "Enemy Alien," even though he was a citizen of the
26 United States.

27 (6) Fred Korematsu attended the Master School of Welding and
28 worked at the docks in Oakland as a shipyard welder, quickly
29 rising through the ranks to foreman until his union barred all people
30 of Japanese ancestry and his employment was terminated. When
31 World War II broke out, Fred Korematsu suffered from acts of
32 discrimination, as he was turned away from restaurants and barber
33 shops, and denied the right to work, travel, and ultimately to reside
34 in his native State of California.

35 (7) In 1942, Fred Korematsu refused to comply with Civilian
36 Exclusion Order No. 34 which was authorized by President
37 Franklin D. Roosevelt's Executive Order No. 9066. It imposed
38 strict curfew regulations and required over 100,000 United States
39 citizens and permanent residents of Japanese ancestry to leave
40 their homes on the West Coast and submit to imprisonment based

1 solely on their ancestry. Rather than reporting to the assembly
2 center with the rest of his family, Fred Korematsu chose to defy
3 the order and decided to carry on his life as an American citizen
4 and a citizen of the State of California.

5 (8) Fred Korematsu was arrested on May 30, 1942, and charged
6 with violating the military's exclusion order. While spending two
7 and one-half months in the Presidio stockade prison in San
8 Francisco, the Executive Director of the American Civil Liberties
9 Union of Northern California, Ernest Besig, offered to defend him.
10 Fred Korematsu was tried and convicted by a federal court and
11 taken by military authorities to the Tanforan Relocation Center in
12 San Bruno, California, where he lived in squalor. After spending
13 several months at Tanforan, a former horse racing track, Korematsu
14 and his family were sent to the Topaz concentration camp in Utah.
15 Believing the discriminatory conviction went against freedoms
16 guaranteed by the Constitution, Fred Korematsu appealed his case.
17 Though the appeal went up to the United States Supreme Court in
18 1944, justice was denied to Fred Korematsu when the Supreme
19 Court upheld the conviction by a six to three vote, leaving him
20 devastated and wondering what effect this would have on other
21 Americans.

22 (9) Tens of thousands of Japanese American soldiers fought in
23 Europe, North Africa, and the Pacific during World War II and
24 served with indomitable spirit and valor, including those in the
25 442nd Infantry, the 100th Infantry Battalion, the 522nd Field
26 Artillery Battalion, the Military Intelligence Service, the 232nd
27 Combat Engineer Company, and the 1399th Engineer Construction
28 Battalion. The 442nd Infantry of the United States Army was a
29 combat team composed primarily of Japanese American soldiers
30 who fought in Europe. Some members of the 442nd were recruited
31 directly from the concentration camps, and many others had
32 relatives that were incarcerated in the camps. Grouped together as
33 the 442nd Regimental Combat Team, the unit became the most
34 decorated unit in United States military history for its size and
35 length of service, receiving seven Presidential Unit Citations, 21
36 Medals of Honor, 52 Distinguished Service Crosses, 560 Silver
37 Stars, 4,000 Bronze Stars, and numerous additional distinctions.

38 (10) Following World War II and the release of Japanese
39 Americans from the concentration camps, Fred Korematsu
40 attempted to resume life as an American citizen, marrying his wife

Kathryn and raising two children, Karen and Ken. He maintained his innocence through the years, but the conviction had a lasting impact on Fred Korematsu's basic rights, affecting his ability to obtain employment.

(11) In 1982, with newly discovered evidence found by Peter Irons, a legal historian and attorney, and Aiko Yoshinaga-Herzig, a researcher, Fred Korematsu made the decision to reopen his 1944 conviction by petitioning for a writ of error coram nobis to have the wrongful conviction vacated. The task of retrying a legal case based on events 40 years past was complicated and novel, but a pro bono legal team composed mostly of Sansei ~~third-generation Japanese Americans~~ (*third generation Japanese Americans*) was determined to undo the injustice perpetrated on Fred Korematsu and their own family members who were imprisoned along with Korematsu. Similarly, Minoru Yasui and Gordon K. Hirabayashi also petitioned for writs of error coram nobis in Oregon and Washington. Fred Korematsu's attorneys worked closely with the legal teams assembled for the Minoru Yasui and Gordon K. Hirabayashi cases. These pro bono teams were also composed primarily of Sansei, and together the attorneys for the three cases developed the legal strategies that would prove successful in defending the civil rights of Fred Korematsu, Minoru Yasui, Gordon K. Hirabayashi, and all Americans.

(12) The writ of error coram nobis has been extremely limited in application, but has been used by courts once an individual has been convicted and released in order to correct a court's fundamental error or to reverse a manifest injustice. For Fred Korematsu, the fundamental errors at the Supreme Court level were the suppression, alteration, and destruction of evidence by United States government officials that Japanese Americans were not disloyal nor were predisposed to espionage and sabotage, as had been argued by the government in the Korematsu, Hirabayashi, and Yasui cases, and that no facts warranted the issuance of the military orders and Executive Order No. 9066. Thus, Fred Korematsu's lawyers argued that a fraud on the Supreme Court had been committed, resulting in Fred Korematsu's conviction.

(13) After litigating for nearly a year in the United States District Court for the Northern District of California, Fred Korematsu and his legal team emerged triumphant on November 10, 1983, when Judge Marilyn Hall Patel announced from the bench her decision

1 granting the petition for the writ of error coram nobis to overturn
2 Fred Korematsu's conviction. The written decision was published
3 on April 19, 1984.

4 (14) The decision by Judge Patel influenced petitions for writ
5 of error coram nobis in the United States District Courts of Oregon
6 and Washington, where Minoru Yasui and Gordon K. Hirabayashi
7 successfully filed to have their wrongful convictions vacated. The
8 coram nobis decisions in these cases impaired the precedent of the
9 original Supreme Court cases which validated the curfew and
10 exclusion orders. In addition, the decisions influenced Congress'
11 passage of the Civil Liberties Act of 1988.

12 (15) The Civil Liberties Act of 1988 was signed into law by
13 President Ronald Reagan and recognized the grave injustice that
14 was done to United States residents and citizens of Japanese
15 ancestry by the forced relocation and incarceration of civilians
16 during World War II. Congress acknowledged that the incarceration
17 of these Japanese Americans occurred because of racial prejudice,
18 wartime hysteria, and a failure of political leadership. The apology
19 extended on behalf of the United States was also intended to make
20 more credible and to be consistent with any expressions of concern
21 by the United States over violations of human rights committed
22 by other nations.

23 (16) On January 15, 1998, Fred Korematsu was awarded the
24 Presidential Medal of Freedom. The Presidential Medal of Freedom
25 is the highest honor bestowed upon a civilian who has made a
26 particularly meritorious contribution to the nation's interests.

27 (17) On June 11, 1998, Fred Korematsu received the first
28 California Senate Medal.

29 (18) Fred Korematsu continued his efforts to ensure that
30 Americans do not forget the lessons learned from our own history
31 as he traveled across the country, speaking at various colleges, law
32 schools, and other organizations. He received honorary doctorates
33 from the University of San Francisco, California State University,
34 East Bay (formerly California State University, Hayward),
35 McGeorge School of Law, and the City University of New York
36 Law School. Fred Korematsu shared his story and encouraged
37 others to speak up when faced with injustice.

38 (19) After September 11, 2001 (9/11), Korematsu continued to
39 speak out. In 2004, he filed a petition with the United States
40 Supreme Court on behalf of Muslim inmates at Guantanamo Bay,

1 ~~warning that the government's extreme measures were reminiscent~~
2 ~~of the past. speak out. In 2003, he filed a "Friend-of-the-Court"~~
3 ~~brief with the United States Supreme Court on behalf of Muslim~~
4 ~~inmates being held at Guantanamo Bay, warning that the~~
5 ~~government's extreme national security measures were reminiscent~~
6 ~~of the past. In 2004, he filed a similar brief on behalf of an~~
7 ~~American Muslim man being held in solitary confinement without~~
8 ~~a trial in a United States military prison.~~

9 (20) Fred Korematsu's life was the basis for the Emmy
10 award-winning 2001 Public Broadcasting Service documentary
11 "Of Civil Wrongs and Rights: The Fred Korematsu Story,"
12 coproduced by Eric Paul Fournier and Fred Korematsu's son, Ken
13 Korematsu. The coram nobis cases were also the subject of an
14 Oscar nominated film, "Unfinished Business" directed by Steven
15 Okazaki.

16 (21) A true civil liberties hero was lost on March 30, 2005, when
17 Fred Korematsu passed away at 86 years of age due to respiratory
18 illness in San Rafael, California, leaving behind a lasting influence
19 on the importance of maintaining the constitutionally mandated
20 guarantee of liberty for all Americans.

21 (22) On April 18, 2009, Seattle University School of Law
22 opened the ~~"Fred T. Korematsu Center for Law and Equality."~~
23 *Fred T. Korematsu Center for Law and Equality.*

24 (23) On April 30, 2009, the Asian Law Caucus in San Francisco
25 officially launched the Fred T. Korematsu Institute for Civil Rights
26 and Education. The mission of the institute is to advance pan-ethnic
27 civil rights issues, in a post-9/11 context, through education,
28 leadership development, and activism. Fred Korematsu's daughter,
29 ~~Karen Korematsu-Haigh~~ *Korematsu*, helped found the Korematsu
30 Institute. She is active in advancing her father's legacy as a member
31 of the Institute's Steering Committee and as a speaker at
32 universities and organizations across the country.

33 (24) On December 15, 2009, the San Leandro School Board in
34 a unanimous decision named the new 9th grade campus the San
35 Leandro High School, Fred T. Korematsu Campus. In November
36 2005, an elementary school at Mace Ranch in Davis, California,
37 was renamed the Fred T. Korematsu Elementary School at Mace
38 Ranch. In November 2006, the Discovery Academy elementary
39 school in Oakland, California, was renamed the Fred T. Korematsu
40 Discovery Academy.

1 ~~(25) In the late 1980s 1988, two new streets in San Jose,~~
2 ~~California, were named Korematsu Court and Hirabayashi Drive.~~

3 (26) Fred Korematsu's life and his willingness to assert that our
4 civil liberties are the hallmark of our great country have left an
5 indelible mark on the history of our nation and holds a special
6 meaning for the people of California.

7 ~~SEC. 2. Section 37222 of the Education Code is amended to~~
8 ~~read:~~

9 ~~37222. (a) The following days in each year are designated and~~
10 ~~set apart as days having special significance:~~

11 ~~(1) The second Wednesday in May as the Day of the Teacher.~~

12 ~~(2) April 21 of each year as John Muir Day.~~

13 ~~(3) April 6 of each year as California Poppy Day.~~

14 ~~(4) May 22 of each year as Harvey Milk Day.~~

15 ~~(5) January 30 of each year as Fred Korematsu Day of Civil~~
16 ~~Liberties and the Constitution.~~

17 ~~(b) On each of the days designated in subdivision (a), all public~~
18 ~~schools and educational institutions are encouraged to observe~~
19 ~~those days and to conduct suitable commemorative exercises as~~
20 ~~follows:~~

21 ~~(1) On the Day of the Teacher, exercises commemorating and~~
22 ~~directing attention to teachers and the teaching profession.~~

23 ~~(2) On John Muir Day, exercises stressing the importance that~~
24 ~~an ecologically sound natural environment plays in the quality of~~
25 ~~life for all of us, and emphasizing John Muir's significant~~
26 ~~contributions to the fostering of that awareness and the indelible~~
27 ~~mark he left on the State of California.~~

28 ~~(3) On California Poppy Day, exercises honoring the California~~
29 ~~Poppy, including instruction about native plants, particularly the~~
30 ~~California Poppy, and the economic and aesthetic value of~~
31 ~~wildflowers; promoting responsible behavior toward our natural~~
32 ~~resources and a spirit of protection toward them; and emphasizing~~
33 ~~the value of natural resources and conservation of natural resources.~~

34 ~~(4) On Harvey Milk Day, exercises remembering the life of~~
35 ~~Harvey Milk, recognizing his accomplishments, and familiarizing~~
36 ~~pupils with the contributions he made to this state.~~

37 ~~(5) On Fred Korematsu Day of Civil Liberties and the~~
38 ~~Constitution, exercises remembering the life of Fred Korematsu~~
39 ~~and recognizing the importance of preserving civil liberties, even~~
40 ~~in times of real or perceived crisis.~~

1 ~~(e) It is the intent of the Legislature that the exercises~~
2 ~~encouraged in this section be integrated into the regular school~~
3 ~~program, and be conducted by the school or institution within the~~
4 ~~amount otherwise budgeted for educational programs.~~

5 *SEC. 2. Section 37222 of the Education Code is amended to*
6 *read:*

7 *37222. (a) The following days in each year are designated and*
8 *set apart as days having special significance:—On each day*
9 *designated and set apart as a day having special significance, all*
10 *public schools and educational institutions are encouraged to*
11 *observe that day and to conduct suitable commemorative exercises.*

12 *(b) It is the intent of the Legislature that the exercises*
13 *encouraged by this section be integrated into the regular school*
14 *program, and be conducted by the school or institution within the*
15 *amount otherwise budgeted for educational programs.*

16 ~~(1) The second Wednesday in May as the Day of the Teacher.~~

17 ~~(2) April 21 of each year as John Muir Day.~~

18 ~~(3) April 6 of each year as California Poppy Day.~~

19 ~~(4) May 22 of each year as Harvey Milk Day.~~

20 ~~(b) On each of the days designated in subdivision (a), all public~~
21 ~~schools and educational institutions are encouraged to observe~~
22 ~~those days and to conduct suitable commemorative exercises as~~
23 ~~follows:~~

24 ~~(1) On the Day of the Teacher, exercises commemorating and~~
25 ~~directing attention to teachers and the teaching profession.~~

26 ~~(2) On John Muir Day, exercises stressing the importance that~~
27 ~~an ecologically sound natural environment plays in the quality of~~
28 ~~life for all of us, and emphasizing John Muir's significant~~
29 ~~contributions to the fostering of that awareness and the indelible~~
30 ~~mark he left on the State of California.~~

31 ~~(3) On California Poppy Day, exercises honoring the California~~
32 ~~Poppy, including instruction about native plants, particularly the~~
33 ~~California Poppy, and the economic and aesthetic value of~~
34 ~~wildflowers; promoting responsible behavior toward our natural~~
35 ~~resources and a spirit of protection toward them; and emphasizing~~
36 ~~the value of natural resources and conservation of natural resources.~~

37 ~~(4) On Harvey Milk Day, exercises remembering the life of~~
38 ~~Harvey Milk, recognizing his accomplishments, and familiarizing~~
39 ~~pupils with the contributions he made to this state.~~

1 ~~(e) It is the intent of the Legislature that the exercises~~
2 ~~encouraged in this section be integrated into the regular school~~
3 ~~program, and be conducted by the school or institution within the~~
4 ~~amount otherwise budgeted for educational programs.~~

5 SEC. 3. Section 37222.10 is added to the Education Code, to
6 read:

7 37222.10. (a) The second Wednesday in May of each year is
8 designated and set apart as the Day of the Teacher, a day having
9 special significance pursuant to Section 37222.

10 (b) On the Day of the Teacher, all public schools and
11 educational institutions are encouraged to conduct exercises
12 commemorating and directing attention to teachers and the
13 teaching profession.

14 SEC. 4. Section 37222.11 is added to the Education Code, to
15 read:

16 37222.11. (a) April 21 of each year is designated and set apart
17 as John Muir Day, a day having special significance pursuant to
18 Section 37222.

19 (b) On John Muir Day, all public schools and educational
20 institutions are encouraged to conduct exercises stressing the
21 importance that an ecologically sound natural environment plays
22 in the quality of life for all of us, and emphasizing John Muir's
23 significant contributions to the fostering of that awareness and
24 the indelible mark he left on the State of California.

25 SEC. 5. Section 37222.12 is added to the Education Code, to
26 read:

27 37222.12. (a) April 6 of each year is designated and set apart
28 as California Poppy Day, a day having special significance
29 pursuant to Section 37222.

30 (b) On California Poppy Day, all public schools and educational
31 institutions are encouraged to conduct exercises honoring the
32 California Poppy, including instruction about native plants,
33 particularly the California Poppy, and the economic and aesthetic
34 value of wildflowers; promoting responsible behavior toward our
35 natural resources and a spirit of protection toward them; and
36 emphasizing the value of natural resources and conservation of
37 natural resources.

38 SEC. 6. Section 37222.13 is added to the Education Code, to
39 read:

1 37222.13. (a) May 22 of each year is designated and set apart
2 as Harvey Milk Day, a day having special significance pursuant
3 to Section 37222.

4 (b) On Harvey Milk Day, all public schools and educational
5 institutions are encouraged to conduct exercises remembering the
6 life of Harvey Milk, recognizing his accomplishments, and
7 familiarizing pupils with the contributions he made to this state.

8 SEC. 7. Section 37222.14 is added to the Education Code, to
9 read:

10 37222.14. (a) March 30 of each year is designated and set
11 apart as Welcome Home Vietnam Veterans Day, a day having
12 special significance pursuant to Section 37222.

13 (b) On Welcome Home Vietnam Veterans Day, all public schools
14 and educational institutions are encouraged to conduct exercises
15 recognizing the contributions of all those involved in the Vietnam
16 War and remembering the sacrifices they made for their country.

17 SEC. 8. Section 37222.15 is added to the Education Code, to
18 read:

19 37222.15. (a) January 30 of each year is designated and set
20 apart as Fred Korematsu Day of Civil Liberties and the
21 Constitution, a day having special significance pursuant to Section
22 37222.

23 (b) On Fred Korematsu Day of Civil Liberties and the
24 Constitution, all public schools and educational institutions are
25 encouraged to conduct exercises remembering the life of Fred
26 Korematsu and recognizing the importance of preserving civil
27 liberties, even in times of real or perceived crisis.

28 SEC. 9. Section 37222.5 of the Education Code is repealed.

29 ~~37222.5. (a) In addition to the days specified in Section 37222,~~
30 ~~the day of March 30 in each year shall be designated and set apart~~
31 ~~as Welcome Home Vietnam Veterans Day.~~

32 ~~(b) On the day designated in subdivision (a), all public schools~~
33 ~~and educational institutions are encouraged to observe that day~~
34 ~~and to conduct exercises recognizing the contributions of all those~~
35 ~~involved in the Vietnam War and remembering the sacrifices they~~
36 ~~made for their country.~~

37 ~~(c) It is the intent of the Legislature that the exercises~~
38 ~~encouraged in this section be integrated into the regular school~~
39 ~~program, and be conducted by the school or institution within the~~
40 ~~amount otherwise budgeted for educational programs.~~

1 ~~SEC. 3.~~

2 *SEC. 10.* Section 6722 is added to the Government Code, to
3 read:

4 6722. The Governor annually shall proclaim January 30 as
5 Fred Korematsu Day of Civil Liberties and the Constitution.

O